STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ALEXIS BRIEANNA MIRACLE, ASHLEY LYNN MIRACLE, TYLER JAMES MIRACLE and DAVID MICHAEL ROWLAND, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JENNY LYNN MIRACLE a/k/a JENNY LYN MIRACLE,

Respondent-Appellant,

and

DAVID MICHAEL ROWLAND, SR.,

Respondent.

UNPUBLISHED
June 27, 2000

No. 220040
Wayne Circuit Court
Family Division
LC No. 96-346327

Before: Kelly, P.J., and White and Wilder, JJ.

PER CURIAM.

Respondent Jenny Lynn Miracle appeals as of right from the family court's order terminating her parental rights to her four children: Ashley Lynn Miracle, born November 9, 1991, David Michael Rowland, Jr., born April 24, 1993, Tyler James Miracle, born August 8, 1995, and Alexis Brieanna Miracle, born March 17, 1998.[1] The court issued its order of termination on April 7, 1999, under the following sections of the Juvenile Code, MCL 712A.1 *et seq.*; MSA 27.3178(598.1) *et seq.*: (b)(ii) - failure to prevent abuse and likelihood abuse will reoccur; (c)(i) - conditions that led to adjudication continue to exist; (g) - failure to provide proper care or custody; and (j) - reasonable likelihood that the child will be harmed if returned to the parental home. We affirm.

This matter first came to the attention of the court in September, 1996, when Tyler, then fourteen months old, was taken to the hospital because he was having seizures. He was placed in intensive care. Respondent admitted to allegations that Tyler had multiple bruises to his head, arm, chest, abdomen, leg and back. She also admitted that he was suffering from retinal hemorrhaging and a skull fracture. Respondent admitted that Tyler was an extreme case of failure to thrive, having only attained the size and weight of a six-month-old child. Tyler was made a temporary ward of the court and ordered placed in foster care on January 28, 1997.

At the time of the petition for temporary custody of Tyler, Ashley and David had been living with their maternal grandmother, who had been named their legal guardian following a protective services intervention. Apparently, the two children had not been in respondent's care since 1993. The guardianship was dismissed in November, 1996. A petition for temporary custody noted that the children were presumed to have been living with their grandmother, and that they were not removed when Tyler was removed for that reason. However, the grandmother had been evicted from her home and the children had been sent to live with respondent and an eighteen-year-old aunt. Ashley had reported to her foster care worker that respondent had given whippings to David and her. The aunt also reported that respondent had a bad temper and that she does not allow respondent to watch her child because of the injuries sustained by Tyler. Following a dispositional hearing, the children were made temporary wards of the court and ordered placed in foster care.

Shortly after Alexis was born, FIA filed a petition alleging neglect and seeking to have the child placed in foster care. Specifically, FIA noted that respondent was in need of adequate housing and that the child was at risk in respondent's care and custody. Following a dispositional hearing, Alexis was made a temporary ward of the court and ordered placed in foster care.

The parent-agency treatment plan and service agreement signed by respondent required that she maintain suitable housing, participate in therapy to address low self-esteem problems, complete parenting classes, maintain employment, attend weekly visitation, and actively participate in her treatment plan. At the time the petition for permanent custody was filed, respondent had participated in individual counseling and completed parenting skills training. However, she was deemed to have shown no benefit from these services after two years. Extended visitation of Alexis was revoked after respondent placed the child in physical danger for three weeks, in that there was violence and drugs in the home and respondent left the home becoming homeless. She failed to secure ADC benefits, which would have given her a legal source of income and made her eligible for public housing assistance, and she had been residing in a shelter. Respondent did not comply with weekly visitation and failed to appear for four consecutive weeks, although she called the children daily. She submitted to random drug screens with negative results. The FIA petition concluded that respondent had not successfully completed and benefited from parenting skills training, individual, domestic and family counseling, secured suitable housing, or maintained employment.

After hearing the evidence, the family court took note that respondent began having children at a young age, that she was raised in a violent home and that she had been a victim herself. The court stated that the issue was not whether respondent had a home, could pay for a home, had a job, or worked regularly. The issue was whether the children could be safe in a home that respondent provided

for them. The court found that all of the children had been injured, either physically or emotionally, by being in a violent environment. Additionally, the court found that, even though respondent had secured employment, she had failed to maintain suitable housing. Respondent had failed to internalize the goals of the treatment plan, and she failed to take steps to get out a violent environment and to show some stability. The court found that the allegations in the petition had been substantiated by clear and convincing evidence. In light of respondent's failure to present evidence that termination was not in the children's best interest, the court granted the petition. On appeal, respondent argues that the findings of the court were not supported by clear and convincing evidence.

A court may order termination of a parent's rights when clear and convincing evidence establishes that at least one statutory ground for termination exists. MCL 712A.19b(3); MSA 27.3178(598.19b)(3); MCR 5.974(F)(3). *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999). Once a statutory ground for termination has been proved by clear and convincing evidence, the respondent bears the burden of going forward with evidence that termination is clearly not in the best interests of the children. *Id.* at 450-451; *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Absent any evidence addressing this issue by the respondent, termination of parental rights is mandatory. *Id.* at 473. We review the family court's decision regarding termination for clear error. *In re Hamlet (After Remand)*, 225 Mich App 505, 515; 571 NW2d 750 (1997).

We do not dispute that respondent loves her children and has made some efforts at compliance with the parent-agency agreement. Nevertheless, respondent testified on March 3, 1999, that she had been living with her mother and stepfather and that it was not a suitable home for her children. She admitted to having had fist fights with her mother, and that her parents engaged in violent acts. Yet, she continued to live in their house. She testified that the children have never lived with her in her own home. She testified on March 18, 1999, that since the time of the last hearing, she had signed a one-year lease on a three-bedroom home. Based on this testimony, we cannot disagree with the trial court that respondent failed to show stability.

Moreover, the court's conclusion that respondent has failed to internalize her treatment plan is supported by the evidence. Respondent was twenty-two years old at the time of the termination hearing. She had grown up in a physically abusive family and had been in relationships with abusive men. She continued to live in her parents' home. She stopped participating in domestic violence counseling in June of 1998, but resumed meeting with a therapist on January 20, 1999. Respondent testified that she had changed her behavior as a result of her therapy sessions.

Respondent's therapist opined that respondent was unable to provide a safe environment for her children, and further opined that respondent has repeatedly gotten herself into unsafe situations. In fact, while she was living with her mother and stepfather, they were both arrested for domestic violence. Even though respondent was working and could have paid for her own residence, she did not secure other housing until the time of the termination hearing. We agree with the family court's conclusion that respondent has not progressed far enough on the issues of domestic violence and safety for her children for her to provide a safe, risk-free environment for her children.

Respondent does not address the best interests prong of the termination decision, and no basis for reversing the family court's decision to terminate in this regard is apparent from the record. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith, supra* at 472-473.

Affirmed.

/s/ Michael J. Kelly
/s/ Helene N. White
/s/ Kurtis T. Wilder

[1] In addition, the rights of the fathers were terminated under 19b(3)(a)(ii) - the child has been deserted. None of the fathers has appealed.